

AMENDED IN ASSEMBLY APRIL 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1069

**Introduced by Committee on Agriculture (Matthews (Chair),
Maldonado (Vice Chair), Berg, Cogdill, Maddox, Maze,
Oropeza, Parra, Reyes, Salinas, Vargas, and Wiggins)**

February 20, 2003

~~An act to amend Section 27553 of the Food and Agricultural Code,~~
*An act to amend Sections 27541, 27551, and 27553 of, and to add
Sections 27503.5, 27519.5, 27680, 27681, 27682, 27683, 27684,
27685, 27686, 27687, 27688, 27689, and 27690 to, the Food and
Agricultural Code, relating to eggs.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1069, as amended, Committee on Agriculture. Eggs.

Existing law governing the regulation of eggs and egg products provides that its purposes are to assure that healthful and wholesale eggs of known quality are sold in the state, to facilitate the orderly marketing of eggs, and to prevent the marketing of deceptive or mislabeled containers of eggs. Existing law provides that the Secretary of Food and Agriculture may adopt regulations relating to the preparation for market and marketing of shell eggs, including procedures for the collection of assessments and for the registration of egg handlers. The secretary may prescribe the frequency of payment, procedure for payment, and penalties for late payment of assessments. Existing law requires that the initial purchaser of eggs from out-of-state shall report and pay to the director a maximum assessment fee of five cents (\$0.05) for each 30 dozens of eggs, which shall be deposited into

the Department of Food and Agriculture Fund and used only for the administration and enforcement of provisions relating to shell eggs.

This bill would provide that an assessment for eggs from out-of-state for which the required payment has not been made by the date established by the department shall be triple the amount otherwise due or \$500, whichever is greater.

The bill would require out-of-state egg handlers and producers selling eggs in California to register with the Secretary of Food and Agriculture. This bill would require the fees collected to be paid based upon the number of eggs sold, as specified. This bill would require out-of-state egg handlers to pay the fee on eggs sold in California. This bill would specify procedures by which out-of-state registrants would be inspected by the department. This bill would provide that if the department determines that eggs from out-of-state do not comply with standards, the department would prevent their sale in California, as specified. This bill would require each out-of-state registrant to submit a report on its operations with respect to eggs sold in California and to remit any fees due on a monthly basis.

Because this bill would impose new enforcement duties upon local agencies thereby requiring them to perform a higher level of service, and would also create new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.



The people of the State of California do enact as follows:

SECTION 1. *Section 27503.5 is added to the Food and Agricultural Code, to read:*

27503.5. *“California egg” means an egg produced in this state.*

SEC. 2. *Section 27519.5 is added to the Food and Agricultural Code, to read:*

27519.5. *“Shipped egg” means an egg that is produced outside the State of California and shipped into the state for purposes of resale or use by a direct user.*

SEC. 3. *Section 27541 of the Food and Agricultural Code is amended to read:*

27541. Any person engaged in business in this state as an egg producer or egg handler, *or any out-of-state egg handler or egg producer selling eggs into California* shall register with the ~~director~~ secretary. A new registration shall be submitted if any current information changes.

SEC. 4. *Section 27551 of the Food and Agricultural Code is amended to read:*

27551. The following persons shall pay to the ~~director~~ secretary a maximum fee of five cents (\$0.05) for each 30 dozens of eggs sold ~~or purchased~~ as provided below:

(a) ~~Egg~~ California egg handlers shall pay the fee on all egg sales from their own production, on eggs purchased or acquired from California egg producers, and on eggs processed into egg products. *California egg handlers shall not pay a fee on eggs purchased from out-of-state egg handlers or egg producers.*

(b) ~~The egg producer~~ California egg producers shall pay the fee on all egg sales to anyone not registered as a ~~California~~ under this chapter as an egg handler, to out-of-state purchasers, and to egg breaking plants.

(c) ~~The initial purchaser of eggs from out-of-state, even if Out-of-state egg handlers and producers shall report and pay the fee on egg sales into California sold to a retailer, producer, handler, or breaking plant, shall report and pay the fee.~~

(d) Shipments of eggs which are accompanied by a United States Department of Agriculture certificate of grade and sold to the federal government or its agencies are exempt from these fees.

1 (e) Eggs sold to household consumers on the premises where
2 produced from a total flock size of 500 hens or less are exempt
3 from these fees.

4 (f) The assessment provided for in this section shall only be
5 paid once on any particular egg.

6 SEC. 5. Section 27553 of the Food and Agricultural Code is
7 amended to read:

8 27553. The secretary may, by regulation, prescribe the
9 frequency of payment of assessments, the procedures for payment,
10 the procedures for refunds of payment, and penalties for late
11 payment. However, assessments for any eggs from out-of-state for
12 which the required payment has not been made by the date
13 established by the department shall be triple the amount otherwise
14 due *or five hundred dollars (\$500), whichever is greater.*

15 SEC. 6. Section 27680 is added to the Food and Agricultural
16 Code, to read:

17 27680. *If the grade determination and size determination*
18 *required by this chapter is performed at a location outside of this*
19 *state, the records relating to eggs of any person registered under*
20 *this chapter at that location are subject to inspection by the*
21 *department as the department considers necessary. The*
22 *department may contract with another agency of state government*
23 *or with a state department of agriculture or other similar agency*
24 *where the out-of-state registrant is domiciled to conduct the*
25 *inspection.*

26 SEC. 7. Section 27681 is added to the Food and Agricultural
27 Code, to read:

28 27681. *A registrant whose out-of-state location is inspected*
29 *shall reimburse the department for actual and necessary expenses*
30 *incurred during the inspection. If an out-of-state registrant fails to*
31 *pay the expenses before the 11th day on which the registrant*
32 *received an invoice from the department, the department may:*

33 (a) *Automatically cancel the person's registration.*

34 (b) *Deny a registration to any person who is connected with a*
35 *person whose registration is canceled because of a violation of this*
36 *section.*

37 (c) *Issue an order to stop the sale of all eggs shipped into*
38 *California from the registrant.*

39 SEC. 8. Section 27682 is added to the Food and Agricultural
40 Code, to read:

1 27682. *The actual and necessary expenses of the department*
2 *for each inspection of an out-of-state location may not exceed*
3 *either of the following:*

4 (a) *The actual and necessary expenses, not to exceed the state's*
5 *per diem, for food lodging, and local transportation of the*
6 *inspector and the cost of the least expensive available space*
7 *round-trip airfare from Sacramento to the location to be inspected.*

8 (b) *Any contract fees charged to perform the inspection by*
9 *another state agency or an agricultural agency in the state where*
10 *the registrant is domiciled.*

11 SEC. 9. *Section 27683 is added to the Food and Agricultural*
12 *Code, to read:*

13 27683. *The department shall attempt to schedule as many*
14 *out-of-state inspections as feasible within an area on each*
15 *inspection trip. If more than one registrant is inspected in an area*
16 *during an inspection trip, the expenses of the trip shall be divided*
17 *proportionately among the registrants based upon the amount of*
18 *time spent on each registrant's audit.*

19 SEC. 10. *Section 27684 is added to the Food and Agricultural*
20 *Code, to read:*

21 27684. *The department shall perform sufficient inspections of*
22 *the records of out-of-state registrants to ensure that out-of-state*
23 *registrants selling eggs into California pay the appropriate fees as*
24 *required by Section 27551.*

25 SEC. 11. *Section 27685 is added to the Food and Agricultural*
26 *Code, to read:*

27 27685. *Before receiving a registration as required by this*
28 *chapter, an applicant whose home office or principal place of*
29 *business is outside of this state shall file with the department the*
30 *name of an agent in this state who is authorized to receive service*
31 *of process in actions by the state or the department in the*
32 *enforcement of this chapter.*

33 SEC. 12. *Section 27686 is added to the Food and Agricultural*
34 *Code, to read:*

35 27686. *All shipped eggs must be transported under*
36 *refrigeration in compliance with California statutes and*
37 *regulations.*

38 SEC. 13. *Section 27687 is added to the Food and Agricultural*
39 *Code, to read:*

1 27687. (a) If the department determines that eggs from
2 out-of-state are not in compliance with this chapter or that they
3 have been shipped without the handler or producer first securing
4 the required registration and being current on the payment of the
5 appropriate fees, the department shall issue and enforce an order
6 to stop the sale of the eggs.

7 (b) A person may not sell eggs on which a stop-sale order has
8 been issued until the department determines that the eggs and the
9 handler or producer are in compliance with this chapter. Eggs that
10 are in compliance with this chapter but for which the handler or
11 producer have not secured the required registration and paid the
12 appropriate fees, may only be sold or moved under the specific
13 direction of the secretary.

14 (c) With respect to eggs that are not in compliance with this
15 chapter and on which a stop-sale order has been issued, the seller
16 may submit the eggs for reinspection to an authorized state or
17 county enforcement officer. If on reinspection the eggs fail to meet
18 the specification of the grades with which they are labeled, the
19 seller must remark or repackage the eggs to meet the specifications
20 for their actual grades before calling for reinspection.

21 SEC. 14. Section 27688 is added to the Food and Agricultural
22 Code, to read:

23 27688. Each out-of-state registrant shall submit a report as
24 designated by the department and remit any fees due on a monthly
25 basis. The report is due no later than the 10th day following the
26 month of delivery to California. Each registrant shall keep a copy
27 of this report on file at the registered facility for a period of two
28 years. Any out-of-state registrant who fails to promptly submit
29 required reports or pay required fees is subject to the criminal
30 penalties specified in this chapter. A violation of this section is also
31 subject to a civil or administrative penalty not to exceed five
32 hundred dollars (\$500) per violation. Each day a violation
33 continues may be considered a separate violation for purposes of
34 penalty assessment. The department may also seek appropriate
35 injunctive relief. Repackaged eggs must be labeled with the
36 original sell by date.

37 SEC. 15. Section 27689 is added to the Food and Agricultural
38 Code, to read:

39 27689. The report required by Section 27688 shall give a
40 complete breakdown of all sales of graded and ungraded eggs into

1 *California, listing the individual plant or person to whom eggs*
2 *were sold and indicating whether these eggs were sold on a graded*
3 *or ungraded basis. A check or money order in the amount of the fee*
4 *as required by this chapter on all eggs shipped into California on*
5 *a graded basis shall accompany the report.*

6 *SEC. 16. Section 27690 is added to the Food and Agricultural*
7 *Code, to read:*

8 *27690. All brokers registered with California shall itemize in*
9 *their reports a true and complete list of all eggs brokered into and*
10 *in California. This list shall include the name and address of all*
11 *person from whom eggs were purchased, to whom they were sold,*
12 *and the amount of eggs involved in each transaction. Furthermore,*
13 *the broker shall indicate whether the eggs involved in the*
14 *transaction were graded or ungraded.*

15 *SEC. 17. No reimbursement is required by this act pursuant*
16 *to Section 6 of Article XIII B of the California Constitution for*
17 *certain costs that may be incurred by a local agency or school*
18 *district because in that regard this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the penalty*
20 *for a crime or infraction, within the meaning of Section 17556 of*
21 *the Government Code, or changes the definition of a crime within*
22 *the meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*

24 *However, notwithstanding Section 17610 of the Government*
25 *Code, if the Commission on State Mandates determines that this*
26 *act contains other costs mandated by the state, reimbursement to*
27 *local agencies and school districts for those costs shall be made*
28 *pursuant to Part 7 (commencing with Section 17500) of Division*
29 *4 of Title 2 of the Government Code. If the statewide cost of the*
30 *claim for reimbursement does not exceed one million dollars*
31 *(\$1,000,000), reimbursement shall be made from the State*
32 *Mandates Claims Fund.*